

REMARKS

Reconsideration and withdrawal of the rejections set forth in the Office Action dated November 1, 2007 are respectfully requested. The foregoing amendments and following remarks are believed to address all remaining rejections and place the application in condition for allowance, or alternatively, in better condition for Appeal; therefore, entry of the amendments and consideration of the remarks is respectfully requested.

I. Amendments to the Claims

Claim 19 has been amended to clarify that the apparatus is for interrogating a field including individual PREs that have signature spectral emission characteristics.

Support for the added language can be found, e.g., page 22, line 25 – page 23, line 28.

No new matter has been added.

II. Rejections under 35 U.S.C. § 103

Claims 19, 22, 25, 26, 28, and 29 were rejected as allegedly being obvious over USPN 5,817,462 (Garini *et al.*) in view of USPN 5,479,024 (Hillner *et al.*).

Claim 20 was rejected as allegedly being obvious over USPN 5,817,462 (Garini *et al.*) in view of USPN 5,479,024 (Hillner *et al.*) and further in view of USPN 5,717,518 (Shafer *et al.*).

Claim 24 was rejected as allegedly being obvious over USPN 5,817,462 (Garini *et al.*) in view of USPN 5,479,024 (Hillner *et al.*) and further in view of USPN 5,633,724 (King *et al.*).

The rejections are traversed.

Analysis

The Examiner states that Garini *et al.* teach detection of a "set of pixels" or "multiple fluorophores" (Office Action at 2). However, Garini *et al.* neither teach nor suggest "discriminating individual PREs with a selected signature spectral characteristic from other light-scattering entities in the computer image, based on a

comparison of a selected signature spectral characteristic of PREs and other light-scattering entities in the field determined over said different spectral wavelengths," as recited by claim 19, as amended. Garini *et al.* do not describe individual entities capable of possessing selected signature spectral characteristic, nor do they describe apparatus for detecting such entities.

While Hillner *et al.* mention plasmon modes in particles, generally (col. 8, near top), this reference is also silent as to individual PREs (or equivalent particles) having a selected signature spectral characteristic. Thus, Hillner *et al.* do not cure the defect in Garini *et al.*

Shafer *et al.* and King *et al.* were cited only with respect to additional language in dependent claims 20 and 24, respectively, and in no way correct the defects in Garini *et al.* or Hillner *et al.* with respect to independent claim 19.

Since none of the references, individually or in combination, teaches or suggests the claimed invention, the claimed invention cannot be considered obvious over the cited prior art.

Withdrawal of the rejection is respectfully requested.

III. Conclusion

In view of the foregoing, Applicants submit that the pending claims are fully in condition for allowance. Early notice to that effect is earnestly requested.

If in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is encouraged to call the undersigned at (650) 838-4328.

Respectfully submitted,
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